

REMARKS

Claims 1 to 6, 8 to 10, 12 to 15, 18 to 26 are presently pending in the subject patent application.

By virtue of the current amendment, the Applicant has amended independent Claims 1, 4, 8 and 12 to state that the time slot associated with each auxiliary content item defines the time frame for the delivery of the associated auxiliary content item. The Applicant has also added new dependent Claim 27, the subject matter of which is described at page 6, lines 31 to 34; and page 7, lines 25 to 29; and page 19, lines 23 to 26 of the application as originally filed.

At paragraphs 3, 5 and 6 of the Office Action, the Examiner rejected Claims 1 to 6, 8 to 10, 12 to 15 and 18 to 26 under 35 USC 102(b) as being anticipated by Rakavy (US 5,913,040). As the Applicant will demonstrate, the invention of independent Claims 1, 4, 8 and 12 is not anticipated by Rakavy.

Rakavy does not teach associating each auxiliary content item with a broadcast space comprising a respective time slot that defines a time frame for the delivery of the associated auxiliary content item

Relying on Rakavy col. 3, lines 4 to 43; col. 7, line 51 to col. 8, line 3; col. 9, lines 1 to 7; col. 15, lines 28 to 42; Figs. 4 and 10, the Examiner submitted that Rakavy described a computer-based method of delivering auxiliary content that involved receiving over a network a request from a client terminal for an item of the auxiliary content, each item of the auxiliary content having an associated broadcast space comprising a respective time slot. The Applicant respectfully submits that the passages relied upon by the Examiner do not teach associating with each auxiliary content item a time slot that defines the time frame for the delivery of the associated auxiliary content item.

At col. 3, lines 4 to 8 and lines 34 to 37, Rakavy states that messages are downloaded from a remote computer to a local computer based on a user's selection of advertisement or information categories, and that the users may enter their preferences by directly choosing categories of advertising or other informational content which most interest them. At col. 7, line 51 to col. 8, line 3, Rakavy states that the Scheduler 265 sends the user preferences, user statistics and feedback information to the Advertising System Server 600, and that the Polite Agent 280 is responsible for monitoring the communications line utilization rate and transmitting the data during times of low communications line utilization. At col. 9, lines 1 to 7, Rakavy states that the User Preference and Advertisement database 230 may be located on the mass storage device 516 of the user's personal computer, or on a LAN server. At col. 15, lines 28 to 42, Rakavy states that the advertisements need not be downloaded from the Advertising System Server 600, but may instead be selected from a Local Advertisement Database 550 on the mass storage device 540 of the user's personal computer or the LAN server.

Therefore, in these passages, Rakavy does not disclose that any of the advertisements are associated with a respective time slot that defines the time frame for the delivery of the advertisement. In effect, the process described by Rakavy is very similar to the Microsoft Windows Update feature whereby operating system software updates are downloaded to the user's local computer when the local computer is idle. Accordingly, Rakavy does not teach associating with each item of auxiliary content a broadcast space comprising a respective time slot that defines a time frame for the delivery of the associated auxiliary content item, as required by independent Claims 1, 4, 8 and 12 of the subject patent application.

Rakavy does not teach "selecting an item of auxiliary content in accordance with a correlation between the broadcast spaces, and a time instant of issuance of the request"

Relying on Rakavy col. 2, line 66 to col. 3, line 14; col. 3, lines 52 to 63; col. 7, lines 51 to 55; col. 9, lines 47 to 49; col. 14, line 60 to col. 15, line 27, the Examiner submitted that Rakavy described selecting one of the items in accordance with a correlation between the broadcast spaces, and a time instant of issuance of the request and a web site accessed by the client terminal. The Applicant respectfully submits that the passages relied upon by the Examiner do not support the Examiner's submission.

At col. 2, line 66 to col. 3, line 14, Rakavy states that messages are downloaded from a remote computer to a local computer based on a user's selection of advertisement or information categories, and that the users may enter their preferences by directly choosing categories of advertising or other informational content which most interest them. At col. 9, lines 47 to 49, Rakavy states that the user preference information may include the time periods and types of foreground activities during which advertisements and feedback information may be transmitted. At col. 3, lines 52 to 63 and at col. 7, lines 51 to 61, Rakavy states that the Scheduler 265 sends the user preferences, user statistics and feedback information to the Advertising System Server 600, and that the Polite Agent 280 is responsible for monitoring the communications line utilization rate and transmitting the data between the network and the local computer during times of low communications line utilization. At col. 14, line 60 to col. 15, line 27, Rakavy states that the Polite Agent may be used to transfer any type of information file, including news and weather, and may calculate how many data packets may be transferred without increasing the load beyond a line utilization threshold value.

Therefore, in these passages, Rakavy does not disclose that any of the advertisements are associated with a respective time slot that defines the time frame for the delivery of the advertisement. Moreover, in these passages, Rakavy does not disclose that the Advertising System Server 600 selects the advertisements based on a correlation between each advertisement's time slot and a time instant of the issuance of the request for an advertisement. Instead, Rakavy only discloses that the advertisements that are downloaded to the user's local computer may be based on user preference

information that is transmitted to the Advertising System Server 600. Although Rakavy discloses that the user preference information may specify the time periods during which advertisements may be downloaded, Rakavy does not teach or suggest that any of the advertisements in Rakavy are associated with a respective time slot that defines the time frame for the delivery of the advertisement.

Moreover, although, as the Examiner observed, Rakavy disclosed that the Polite Agent could be modified to receive other types of information content, such as news, weather, sports scores and stock quotes, Rakavy does not teach or suggest that the Advertising System Server 600 selects the appropriate advertisement based on a time slot assigned to each item of information and the time periods specified in the user preference information. Instead, Rakavy explicitly discloses that the user preference information may specify the time periods during which advertisements may be transmitted to the local computer. Since Rakavy also discloses that the Polite Agent 280 is responsible for downloading the advertisement to the user's local computer, it is implicit in the Rakavy disclosure that the Polite Agent 280 uses the time periods specified in the user preference information to determine the appropriate time to download each advertisement to the user's local computer.

The Applicant notes that the Examiner also asserted that the Polite Agent algorithm was able to download and display advertisements at the instant the user requests the content. However, the Examiner failed to identify any particular passage in Rakavy that would support such an interpretation. Further, the Applicant respectfully submits that such an interpretation is inconsistent with one of the objects described by Rakavy. Rakavy disclosed that it was an object of the invention to provide advertisements and/or informational message from a network to a local computer with minimal interference with other data being transmitted between the network and the local computer (see col. 3, lines 9 to 14). To realize this object, Rakavy disclosed that the Polite Agent 280 transmits the data between the network and the local computer during times of low communications line utilization (see col. 7, lines 51 to 61). Since the ability

to download advertisements at the instant the user requests the content would be inconsistent with one of the objects described by Rakavy, the Applicant respectfully submits that the Examiner erred by concluding that Rakavy made such a teaching.

Accordingly, the Applicant submits that Rakavy does not teach associating with each item of auxiliary content a respective time slot that defines the time frame for the delivery of the item of auxiliary content, and selecting an item of auxiliary content "in accordance with a correlation between the broadcast spaces, and a time instant of issuance of the request", as required by independent Claims 1, 4, 8 and 12 of the subject patent application.

Rakavy does not teach "selecting an item of auxiliary content in accordance with a ... a networked computer accessed by the client terminal"

Relying on Rakavy col. 4, line 46 to col. 5, line 65, the Examiner submitted that Rakavy described selecting one of the items in accordance with a web site accessed by the client terminal. The Applicant respectfully submits that the passage relied upon by the Examiner does not support the Examiner's submission.

At col. 5, lines 41 to 65, Rakavy states that when the local computer connects to the Advertising System server, the Advertising System server uses the user's user-ID, configuration information and preference information to select the next advertisement to be downloaded. This passage also states that the local computer may directly request a specific advertisement through the use of a unique advertisement-ID assigned to the advertisement. Rakavy does not disclose that the Advertising System server bases the selection of the advertisement based on the networked computer or the web site that is accessed by the local computer. Accordingly, Rakavy does not teach selecting an item of auxiliary content in accordance with a networked computer or a web site that is accessed by the client terminal, as required by independent Claims 1, 4, 8 and 12 of the subject patent application.

It is well established that to anticipate a claim under 35 USC 102(b), a single prior art reference must expressly or inherently teach each and every claim limitation. Since Rakavy does not teach:

- (1) associating with each auxiliary content item a broadcast space comprising a respective time slot that defines a time frame for the delivery of the associated auxiliary content item;
- (2) selecting an item of auxiliary content in accordance with a correlation between the broadcast spaces, and a time instant of issuance of the request and a web site accessed by the client terminal;
- (3) selecting an item of auxiliary content in accordance with a networked computer accessed by the client terminal,

the Applicant submits that the invention of independent Claims 1, 4 8 and 12 is not anticipated by Rakavy.

Accordingly, the Applicant respectfully requests that the Examiner withdraw the 35 USC 102(b) rejection that the Examiner maintained against Claims 1 to 6, 8 to 10, 12 to 15 and 18 to 26.

In view of the foregoing amendments, Applicant submits that the Examiner's bases for rejection of or objection to the claims, as set forth in the final Office Action of February 11, 2009, should be deemed overcome. Withdrawal of the rejections and objections to the claims, and reconsideration and allowance of the application as a whole, are respectfully solicited.

As a result of the foregoing amendments, one additional (dependent) claim has been added to the application. Accordingly, Applicant hereby expressly authorizes that the small entity extra claim fee of \$26.00 for one additional claim, be charged to Applicant's attorneys' deposit account no. 502428.

Should anything further be required, a telephone call to the undersigned at (312) 456-8400 is respectfully requested.

Respectfully submitted,

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